

THE MINUTES OF THE REGULAR MEETING OF SEPTEMBER 27, 2018

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, September 27, 2018, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Doug Hudson, Mr. Keller Hopkins, Ms. Holly Wingate, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director of Planning & Zoning, Mr. Jamie Whitehouse – Planning & Zoning Manager, and Ms. Samantha Bulkilvish – Planner I.

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to approve the Agenda as posted. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the Minutes for August 23, 2018. Motion carried 5-0.

OLD BUSINESS

2018-13 Anchors Run – Insight Development Company, LLC

A cluster subdivision to divide 132.71 acres +/- into 265 single family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The properties are on the east side of Beaver Dam Road, approximately 500 ft. south of Hopkins Road and across from Stockley Road Tax Parcels: 234-6.00-19.00 and 20.01. Zoning District. AR-1 (Agricultural Residential District).

The Planning Commission discussed the application which has been deferred since September 13, 2018.

The Commission held a discussion regarding the two roundabouts; that the northeast corner of one of the roundabouts appears to cut into adjoining parcels; that there are concerns about the proximity of the two roundabouts to each other; that the Commission cannot approve or deny an application on the basis of the street design; and that if there is any roadway dedication needed a question was raised as to whether the roundabout would require any third party land.

Motion by Mr. Hudson, seconded by Ms. Stevenson and carried to defer the application for further consideration. Motion carried 5-0.

C/U #2143 Tri Gas & Oil Co. Inc.

An Ordinance to Grant a Conditional Use of land in a C-1 General Commercial District for a petroleum fuel storage and office facility to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 1.9475 Acres, more or less. The property is lying on the east side of DuPont Boulevard (Rt. 113), approximately 766 ft. south of Wilson Hill Road. 911 Address: 20205 DuPont Boulevard, Georgetown. Tax Parcels: 135-14.00-66.10 and 135-14.00-66.07 (portion of).

The Planning Commission discussed the application which has been deferred since September 13, 2018.

Mr. Hopkins moved that the Commission recommend approval of C/U #2143 for Tri Gas & Oil Co., Inc. for petroleum fuel storage and an office facility in a C-1 General Commercial District based upon the record made during the public hearing and for the following reasons:

1. This is an expansion of Conditional Use #1080, approved as Ordinance #978 in 1994 for a propane storage facility with frontage on US Route 113. A propane storage facility has existed on that site since that time.
2. This site is an appropriate location for additional fuel storage facilities and an office for that use.
3. This site is in the Highway Commercial and Developing Areas according to the Sussex County Comprehensive Plan. Both of these areas are appropriate for this type of use.
4. The expansion of this use will not adversely affect the neighborhood or area roadways or traffic.
5. The use as a fuel storage facility is a utility use that will benefit the health, safety and welfare of Sussex County and its residents and businesses.
6. No parties appeared in opposition to this application. The adjacent property owner has stated his support for the application.
7. Because this Conditional Use is the expansion of an existing Conditional use that had no conditions upon it, and because the underlying property is zoned C-1, very few conditions should be imposed upon this recommendation. The recommended conditions are as follows:
 - A. As stated by the Applicant, the operational area behind the office building shall be fenced for security purposes.
 - B. There shall be thirteen (13) parking spaces for customers and nine (9) parking spaces for employees.
 - C. As stated by the Applicant, there is currently lighting on the property. Additional lighting may be added for security purposes. Any additional lighting shall be downward screened so that it does not shine upon neighboring properties or roadways.
 - D. Because the property is Zoned C-1 General Commercial any signage shall comply with the sign requirements for C-1 District.
 - E. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 5-0.

C/U # 2152 Charles Auman

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an amendment to a condition of approval of Conditional Use no. 1771 (Ordinance 2056)

and Conditional Use no. 2020 (Ordinance 2410) to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 8.93 acres, more or less. The property is located on the west side of Marshall Street Ext. and south of Swain's Private Road approximately 570 ft. west of Marshall Street Ext. 911 Address: 7158 Marshall Street, Lincoln. Tax Parcels: 330-11.17-20.00 & 330-15.05-6.00.

The Planning Commission discussed the application which has been deferred since September 13, 2018.

Ms. Hoey-Stevenson outlined concerns in relation to the potential intensity of illumination and the potential for animation of messages on the Electronic Message Display after dark.

Mr. Hopkins moved that the Commission recommend approval of C/U #2152 for Charles Auman to amend Condition #4 of Conditional Use #1771 and Ordinance #2056 to allow an Electronic Message Display sign based upon the record made during the public hearing and for the following reasons:

1. Condition #4 currently states that "One lighted sign, not to exceed 32 square feet in size, shall be permitted. The proposed sign location shall be shown on the Final Site Plan.
2. Section 115-161.1 of the Zoning Code states that On-Premises Electronic Message Displays can only be allowed in the AR-1 Zone "if specifically permitted as part of a conditional use". This is the reason that the applicant is seeking an amendment to his Conditional Use to allow the Electronic Message Display.
3. The Applicant explained that the Electronic Message Display is needed to advertise the services of the storage facility that was approved by the Conditional Use for the property.
4. The Applicant stated that he understands that the Zoning Code governs brightness, no animation after dark and other factors regarding how the sign will be operated so that it will not have an adverse effect on neighboring properties or roadways.
5. No parties appeared in opposition to the requested sign.
6. Condition #4 of Conditional Use #1771 and Ordinance #2056 should be amended to state: "One Electric Message Center sign, not to exceed 32 square feet in size, shall be permitted. The proposed sign location shall be shown on the Final Site Plan".

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 5-0.

C/Z #1857 Elisabeth Ann Burkhardt

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-2 Business Community District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.3673 acre, more or less. The property is lying on the on the southwest corner of Savannah Road and Woodland Road 911 Address: 1500 Savannah Road, Lewes. Tax Parcel: 335-8.18-28.00.

The Planning Commission discussed the application which has been deferred since September 13, 2018.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend denial of the application. This recommendation is based upon the majority of non-residential uses in the area being approved by way of Conditional Use, and due to the area having a residential appearance, the Commission recommends that a Conditional Use application be submitted and that any application fee is waived. Motion carried 5-0.

PUBLIC HEARINGS

Mr. Robertson described the procedures for public hearings before the Planning and Zoning Commission.

Ord. # 18-11 – Permitted Densities

An Ordinance to amend Chapter 115, Article III, Article IV and Article XXV of the Sussex County Code in relation to the calculation of permitted density.

Ms. Cornwell advised the Commission that this is an Ordinance to address how revised density is calculated; and that the proposed Ordinance would remove the ability to count wetlands towards the overall density permitted. One letter in support of the Ordinance and one letter received opposition to the Ordinance were read into the record.

The Commission found that Mr. Martin Ross, Mr. Wayne Baker and Mr. Robert Horsey were present and spoke in opposition to the proposed Ordinance; that Mr. Ross stated he was in support of Mr. Baxter's comments at the previous meeting of the Commission on September 27, 2018; that when property is in wetlands it may be used to obtain loans and financing ; that the Ordinance may take away development rights; that the Ordinance may decrease the property value of agricultural land in particular; that the Commission should consider approval of higher densities; that he would like to discuss ways to create a process which enable natural resource preservation and protection of wetlands; that there is no State or local law regulating non-tidal wetlands; that the proposed Ordinance should be revised to reflect federally regulated wetlands and maps; that the Ordinance impacts non-tidal rivers or streams and tidal waters and the Ordinance should specify these streams which should be depicted in the Comprehensive Plan; that Mr. Baker stated he understood that the non-tidal wetlands are not considered in the Ordinance; that if they are removed the non-tidal wetlands, it would help alleviate agricultural problems; that he has concerns with the definition of wetlands; that this is out of place; that Mr. Horsey stated he agrees with Mr. Baxter about the devaluation of land; and that if they want to preserve the rural look of an area, then you need to preserve the value of land.

The Commission found that Mr. Ken Boschwitz spoke in support to the proposed Ordinance; that Mr. Boschwitz stated the Commissioners are in power to shape Sussex County for years to come; that he has concerns about water quality; that there is a need to protect all wetlands and the Ordinance does that; that Sussex County has the weakest regulations on wetlands in the State and surrounding Counties; that too much density near wetlands is a concern; that the importance of the future is enviro protection over prosperity rights; and that the Ordinance is consistent with the new Comprehensive Plan.

The Commission held a discussion regarding the proposed Ordinance; that a discussion about

finding a way to address both issues of farms and environmental protection; that this is a big impact on a lot of people; and that they need to address the issue very carefully.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

2018-14 Dennis L. & Sharon K. Shockley

A standard subdivision to divide 57.7 acres +/- into 1 single family lot to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County. The property is lying on the west side of Edgewood Ave., approximately 862 ft. southwest side of Taylor Mill Rd., approximately 611 ft. east of Discount Land Rd. The proposed parcel will be off of Edgewood Ave. Tax Parcel: 232-6.00-63.00 (portion of). Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were comments from the Sussex Conservation District, the applicant is requesting a waiver from the requirement to provide topography, street design standards, and the forest landscape buffer. One letter was received in opposition to the application was read into the record.

The Commission found that Mr. Dennis Shockley was present on behalf of the application; that Mr. Shockley stated he wanted to give a parcel to his grandson, that the deed states the access is through Edgewood Avenue; that he has a Right-of-Way to the land; that they used it before in the past when a trailer was located there; that Mr. Shockley stated there is well and septic on the property; and that the trailer was placed in 1993 and was there about 10 years ago.

The Commission found that no one spoke in favor or opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hopkins, seconded by Mr. Hudson and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/U #2141 Miller's Tree & Outdoor Services (David Miller)

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a tree cutting business to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 0.81 acre, more or less. The property is lying on the north side of Whitesville Road, approximately 0.3 mile southeast of Russell Road. 911 Address: N/A. Tax Parcel: 532-16.00-14.01 (portion of).

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, an exhibit booklet, site plan, comments from Sussex Conservation District, and results from DelDOT Service Elevation. One letter was received in opposition to this application and was read into the record.

The Commission found Mr. Mark Davidson, with Pennoni Associates and David Miller, owner of Miller's Tree and Outdoor Services were present on behalf of the application; that Mr. Davidson stated this is an application for a Conditional Use in a AR-1 Zone; that it is located on a property

of 0.81 acres; that the applicant has been in business for 25 years; that he is a Licensed tree expert in the States of Delaware and Maryland; that he works in both Delaware and Maryland; that he lives across the street and currently has his equipment parked on that site; that he will be purchasing the parcel across the street; that they are proposing a 2,000 square foot building for maintenance and repair of the equipment; that all the maintenance and repairs will be inside of the building; that there will be an area in the back to store his trailers and equipment; that he provides tree removal services, tree trimming, stump grinding, snow removal, storm cleanup, and etc.; that he does cut firewood, he delivers firewood and does not sell firewood at this site; that the Future Land Use Map shows the property is located in a low-density area; that the parcel is less than one acre in size; that all the work is done off-site; that he just needs a place to park his trucks, trailers and to be able to service them; that the hours of operation are 6:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 2:00 p.m., on Saturdays; that there will be no Sunday hours except during extreme/in climate weather conditions; that he has a couple of employees and is looking to grow his business; that there is no septic on-site now and would like to be able to install septic in the future with the proper permits; that the site is on a major collector road; that there is no grinding of trees on the site; that no stumps will be taken to the site; that he has two employees now but looking to grow; that there will be a minimum 15-foot buffer around the property; that he will store the trees for firewood behind the building and it will be properly screened; that there will be no sign now and if he wants one, it will be a standard sign; that he is not really looking to display advertising that he is there; that the parking lot will be a gravel; and that he will have a 15-foot buffer around the property and will try not to disturb any of the existing trees.

The Commission found that Mr. Martin Ross spoke in favor of the application; that Mr. Ross stated the lot east of the parcel is a restricted and Mr. Ross sold it; that Mr. Miller has outgrown his lot; that the land to the west of this property is a certified tree farm; that this is an appropriate use; that there is farmland use in the area; and that the deed restriction is for non-residential use.

The Commission found that no one spoke in opposition of the application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/U #2142 RH Orr, LLC, C/O Ribera Development, LLC

An Ordinance to grant a Conditional Use of land in a GR General Residential District for multi-family units (135 townhouses) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 47.7177 acres, more or less. The property is located on the east side of Central Avenue., approximately 0.22 miles north of Old Church Cemetery Rd. 911 Address: 34365 Central Ave., Frankford. Tax Parcel: 134-16.00-39.00.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, an exhibit booklet, site plan, comments from the Sussex Conservation District. Two letters received in opposition, and one letter received raising concerns were read into the record.

The Commission found that William Scott and Attorney with Scott and Shuman, was present along with Mr. Mike Fitzgerald and Mr. Rich Thomas with RH Orr, Mr. Frank Kea and Mr. Jason

Palkewicz with Solutions IPM, and Mr. Ed Laney with Environmental Resources, Inc. were present of behalf of the application; that Mr. Scott stated the property is zoned General Residential which permits development of townhome/condominiums which are defined as multi-family dwellings through a conditional use process; that the parcel consists of 47.177 acres of land; that application is for 135 townhome/condominiums with both active and passive open space; that the project will have a gross density of 2.83 homes per acre; that this is much less than the 4.35 homes per acre that is permitted in the GR zone; that the Land Use Classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area; that this area is a growth area; that the property is a combination of farmland and woodlands with some nontidal wetlands; that there is currently a single family home on the property that is proposed to be removed; that the proposed 135 homes is 72 homes less than what is permitted at the base gross density in the GR zone which is 4.35 homes per acre; that the base density would permit 207 and they are proposing 72 less at 135 in total; that the General Residential zone promotes Medium Density uses and various uses permitted in the GR zone including single family homes, manufactured mobile homes, and townhomes/condominiums with the conditions through a Conditional Use process; that property is located in State Spending Strategies Levels 2 and 3 with a small portion in the Level 4, which will not be developed; that the former plan has been revised and reduced the number of homes reduced down to 135 to increase the buffer between this proposed project and Forest Landing; that the proposed project is consistent with the residential development in the area; that there is Forest Landing development adjacent which has 353 homes, the majority which are townhomes and duplexes; that there is also Village of Bear Trap Dunes in close proximity which has 704 homes with a mix of single family, townhomes and condominiums; that Mr. Kea stated the entrance to the property is where there is a culvert over a ditch and DelDOT would like the entrance moved to the north and move it further away from the curb and the road for a safer entrance; that the existing location there is culvert through the ditch that runs parallel with Central Avenue and has been maintained with the intention to connecting the multi-modal path along the frontage to the interior roadway and sidewalks; that would give them an emergency access to the community from the roadway as well as the entrance itself and the connection to the multi-modal path; that the building design provides that no building is longer than 170-feet; that where homes are back-to-back they will 50-feet apart rather than the minimum of 40-feet separation; that all the wooded wetlands will be preserved with minor disturbance for stormwater outfall sewer connection in Forest Landing; that the main road goes directly to the recreational center; that the recreational center will have an exercise facility, clubhouse with a swimming pool and pool deck; that open space and the cemetery will be preserved with a buffer around it, with a fence and parking to able to get to it; that the open spaces are mainly wetlands; that there is no other way to connect due to the wetlands; that there is a 50-foot buffer from the stream; that the closet they get to a building in Forest Landing is 162-feet; that further to the east there will be a buffer of 226-feet from building to building; that they propose a 50-foot buffer is proposed; that the open space will either be a dog park, a pedestrian park, tot lot or other uses for the community; that there is a ditch preventing stormwater management going into Forest Landing; that to the west of the property will be a stormwater management facility that is proposed and will also capture stormwater and root it to the south; that they calculated the parking as a two car garages and two car driveways and could be developed as one car garages and one car driveways; that there are 270 parking spaces that are required and they will provide 335 parking spaces with an additional 65 surface spaces throughout the development; that Mr. Palkewicz stated on the east side will be a 20-foot buffer and stormwater management; that that the Land Use Classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area; that the sewer will be provided by Sussex County;

that water will be provided by Artesian district; that they will try to maintain the existing drainage system that is on-site; that all the water that hits the site will be treated on-site and brought to the south; that there will be no discharge off site; that there will be no negative impact on the adjoining neighbors; that they meet with DelDOT that the proposed improvements are 11-foot travel lanes with five shoulders as well as a bypass lane and a right turn lane into the community; that there will be street lights, sidewalks, a mailbox cluster with parking and a bus stop; that Mr. Laney stated he overlooked a detailed delineation on the 47.7 acre site; that there is no state regulated wetlands and it is all federally regulated; that there is 17.7 acres of those wetlands; that there is 23 acres of upland forest; that there were plans submitted to the Army Corp of Engineering; that there is no federally threatened or endangered species on the site; that he did notice some bald eagles fly over and the Wildlife Biologists stated they did not have any concerns and there was nothing in the Plus comments; that the eagles will stay protected and are no longer an endanger species; that they will cross the tax ditch and will be authorized through a permit from DNREC and the Army Corp of Engineering; that there will be temporary impact to run the utilities across one area of non-tidal wetlands and with permits; that the tax ditch easement is 80-feet but not the development side; that Mr. Scott stated the open space is calculated at 36.08 acres which is just over 75% of the site; that 39.4 acres and is almost 52% of the trees will be maintained; that DelDOT did not require a TIS but they will do an area wide fee; that they will create a condominium owner association; that the Orr project meets the requirements County Zoning Ordinance requires, the supplementary regulations for the Environmentally Sensitive Developing Area and the conditions required for a conditional use; that there will be a force main going into the existing County sewer system and will tie into the pump station on-site; that there is an option to drill the force main underground so the woods will not have to be cleared; that average daily trips per day were 1,026 based on 171 lots; that the HOA is required to hire an consultant to maintain the stormwater management ponds; that they will ensure there will be access to open space by all; that there was an existing 39 acres of trees and 20 acres which are being maintained; and that there will be pad site for the bus stop.

The Commission found that Mr. Gary Mann spoke in favor to the application; that Mr. Mann stated Forest Landing is in favor and the community is almost finished being built; that he lived through construction and his primary concern is the construction of the new community; that it will be done in such a manner that it does not have an adverse impact on his community which the development is going on; that he has concerns with drainage and during construction and post construction; that he questions if this will impact the community; that they would like to know how deep the tree buffer is between the properties and practically where the dog park will be located; that he has concerns with loss of trees in the future; that when they starting clearing the land, will it cause a vermin problem and what can they do to mitigate that; that they are going to tie into the utilities and will it impact them; that if landscaping is disturbed; that Mr. Robertson explained how the Conditional Use process operates and that the property would have conditions that they would have to follow; that Mr. Scott stated they may have some construction nuisance and a silt fence will be put up; that the Planning and Zoning Commission or County Council puts conditions on the time of day when construction may occur and materials may be delivered; that Mr. Palkewicz stated that any water heading towards the adjacent property will be captured into their pond; that they would not make any issues worse; that Mr. Scott stated where the existing homes and they are proposing a 50-foot forested buffer; that there will be other buildings 80-feet from the property line and there will be 20-foot forested buffer and a pond between them; that the distance between the building to east and lots is 225 feet; that they will be saving 52% of the trees and if some have to come down, they will replace them; that they are asking for 135 units; that

Mr. Laney stated there are two ways to run the proposed sewer line; that first way is to open cut the force main which is four feet deep with a trench through the trees and restore that with proper materials and get the required permits; that the second way is to do a directional drill and have equipment to pull the pipe back and forth and that maybe a little more disruptive to the community; that some of the smaller species could be displaced temporarily; and that it is difficult to control.

The Commission found that Mr. Tyler Hickman, Mr. Kent Boschwitz, Ms. Karen Hickman spoke in opposition to the application; that Mr. Hickman stated this shall should stay affordable homes and single family homes; that the market is already flooded with row homes already that are not selling; that multi-family complexes tend to encourage second home ownership and they don't live here full time and are not invested in the community as full-time residents would be; that single-family homeowners tend to live here full-time and they care about the area; that the wetlands and cemetery should not be allowed to be calculated as density calculations; that he believes there are other graves elsewhere on the property; that he has concerns with traffic; that he has concerns with headlights shining into his house; that he has concerns with the bald eagles; that he has concerns with the buffer on Central Avenue; that Mr. Boschwitz stated he has concerns with the loss of farms; that this is a good location for open space; and that Ms. Hickman stated she has concerns with the non-stop traffic that there is now.

At the conclusion of the public hearings, the Commission discussed this application. The Commission discussed the Eagles Landing; that is there another cemetery on the site; that there is a barrier/buffer across the street; that the tax ditch easement is in between the tax ditch and the Right-of-Way; that they don't want to require a buffer within that 80-foot buffer; that the easement runs from the tax ditch to the road and not from the tax ditch to the development; and that they could require a buffer on the inside of the tax ditch where there is no easement.

Motion by Ms. Wingate, seconded by Mr. Hopkins, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/U #2144 William Caldwell

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a tree company operation to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 2.5851 acres, more or less. The property is located on the south side of Greely Avenue, approximately 376 ft. and 461 ft. east of N. Old State Road. 911 Address: 18576 Greely Avenue, Lincoln. Tax Parcels: 230-5.20-55.00 and 56.00.

Ms. Cornwell advised the Commission that submitted into the record were a site plan, staff analysis, comments from the Sussex Conservation District, and the results from DelDOT Service Elevation.

The Commission found that Mr. Carl Anderson and Mr. Jim Atkins, owners of the property and William Caldwell were present of behalf of the application; that Mr. Anderson stated the owns the property with Mr. Atkins; that Mr. Caldwell needed a place to establish his business; that they were not aware that the property needed a Conditional Use permit; that Mr. Atkins stated he okay with him operating the business there and renting the house that is on the property; that the business is basically done offsite; that Mr. Caldwell stated he has been in business for about 28 years; that he parks his trucks there and all the work is done off-site; that he does bring home logs, until they

can haul them away; that it's not worth hauling one or two logs at time, so he waits until he has a full load to haul; that he has a few employees; that they scattered logs on the site because he does not have equipment to stack them; that there is a drainage problem and that he tried to get a ditch installed; that three parcels down from this site is a propane tank storage building and the fire hall is nearby; that the piles have been there for five years; that he might have 100 logs on 2 1/2 acres; that he only has one employee and would like to have three or four; that the hours of operation are 8:00 a.m. to 5:00 p.m. or 6:00 p.m.; and that he use to have a very small sign.

The Commission found that no one spoke in favor to the application.

The Commission found that Mr. Douglas Combs spoke in opposition to the application; that Mr. Combs stated he has concerns with the potential noise, the potential buildup and all kinds of equipment vehicles; that he has concerns with the potential for loss and value of his home and questioned if this is this just going to be a storage area and will it be different than what is being done right now; that he has concerns about the hours of business; that the fire truck lights are going off with sirens; that there is a fire truck stored at his place; that Mr. Caldwell stated the lights on top of the fire truck are white and the truck is for trees; that the truck is equipped with a siren; that they do not drive very fast and use the lights when hauling trees; that they always check the lights before they take the fire truck on the road; that the hours of operation are 8:00 a.m. to 6:00 p.m., Sunday through Saturday; and that he cuts logs, splits wood, and moves logs at other times of the day, outside of those hours.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/Z #1856 Melissa and Nate Walker

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.08 acres, more or less. The property is lying on the on the east side of John J. Williams Hwy. (Rt. 24), approximately 0.38 mile south of Hollymount Road. 911 Address: 22935 John J. Williams Hwy., Millsboro. Tax Parcel: 234-17.00-35.00.

Ms. Cornwell advised the Commission that submitted into the record were a site plan, survey, staff analysis, exhibit booklet and comments from the Sussex Conservation District, and results from DelDOT Service Elevation.

The Commission found that Mr. Mark Davidson with Pennoni Associates, Mrs. Melissa and Mr. Nathan Walker, owners of the property were present of behalf of the application; that the parcel is currently zoned AR-1; that there is currently an existing home on the site; that the home is dated back to the 1890; that there is an existing dog grooming business on the site; that there is an inground swimming pool; that there are two entrances to the property and one is the only one way in; that they have owned the property since 2004; that the property is surrounded by a flag lot on the side and behind the parcel; that they are also surrounded by Herring Creek Estates; that this accommodates commercial uses and is on an arterial road; that they would like to turn the house

into a boutique, architectural, salvage and retail sales; that they would like to provide interior design sales; that it is a two story house and the first-floor contains 1,000 square feet; that their parents are living in the house; that C-2 permits for mixed-use and will not impact the area; that the existing building is approximately 1,800 square feet, the dog grooming business is 1,200 square feet and in the rear of the property is a 600 square foot studio/apartment; that the proposed rezoning of C-2 will not diminish or impair the property value within the neighborhood and it would create a public nuisance or result in an increase of public expenditures; that the C-2 district supports uses that include the retail sales and the type of mix consumer services that they are proposing to use for the property; that the Land Use Classification per the Comprehensive Plan is in an area that is low density, and permitted uses such as business development should be confined to businesses addressing the needs of nearby residents and residential uses, that this is also in the Environmentally Sensitive Developing Overlay Zone; that in the growth area, you can have a mixture of residential and light commercial and is appropriate for the convenience services; that in the proposed Comprehensive Plan, this is consider a Coastal Area; that C-2 zoning is permitted in the Coastal Area; that site is located on Route 24 and it is a major collector road; that it averages approximately 12,700 vehicles a day; that a TIS was not required by DelDOT; that the property is 1.08 acres in size and it is a very small property and a very small use that they are proposing to do; that the property is located in Tier 1 sewer district; that sewer is planned in few years to be connected along Route 24 and they are able to get Tidewater Utilities for water; that there is a lot for residential use and a campground with a commercial store; that they are talking about a very small commercial property; that there are no known major preserved lands in this area; that the property is not in a flood zone, there are no wetlands on the property; that the stormwater will be managed by infiltration into the ground; that the property is in a State Strategies Level 3; that all the improvements such as the multi-modal path and entrance will be carried out by the owners; and that there are some letters received in favor of the application which were included in the exhibit booklet.

The Commission found that no one spoke in favor of the application.

The Commission found that Mr. Paul Sheppard spoke in opposition to the application; that Mr. Sheppard stated he is not here to object to the uses that are being requested; that his object is the change in the zoning; that this property is completely surrounded by AR-1 and this would be a spot zoning situation; that the C-2 allows for so much in terms of commercial uses; that he has no objection to the dog grooming, boutique and the parents living there; that he would like to see a Conditional Use permit instead of a change of zone; and that this is a quality of life issue; and that it is a pleasant rural setting.

At the conclusion of the public hearings, the Commission discussed this application. The Commission noted that the property is surrounded by residential uses. Mr. Robertson clarified some of the objectives behind the new Commercial Zones created in 2018.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to defer action for further consideration. Motion carried 5-0.

OTHER BUSINESS

Vineyards at Nassau Valley Phase 3

Final Site Plan

Mr. Whitehouse advised the Commission that this is a Final Site Plan for the Vineyards at Nassau Valley-Phase 3 to construct 108 condominium units within 26-unit buildings, 56 single-family 'carriage house' units, 25 single family lots and amenities located off Lewes Georgetown Highway (Rt. 9). The Planning & Zoning Commission approved the Preliminary Site Plan at its meeting of October 12, 2017, and subject to the requirement that any Final Site Plan provides a means of emergency connectivity to the parcel to the north. The Final Site Plan includes the provision of a means of emergency interconnectivity, along with a placeholder on the plan for proposed amenities, which are to be submitted separately for future consideration by the Commission. Zoning District: AR-1 (Agricultural Residential Zoning District). Tax Parcel: 334-5.00-152.06.

Motion by Ms. Stevenson seconded by Mr. Hudson and carried unanimously to approve the Final Site Plan. Motion carried 5-0.

Americana Bayside (RPC) – Lot 5

Final Site Plan

Mr. Whitehouse advised the Commission that this is a Final Site Plan for Americana Bayside – Lot 5, for a proposed 9,000 SF office building with associated car parking and landscaping. The Final Site Plan complies with the Zoning Code, and all conditions of approval for the Residential Planned Community. Staff are in receipt of Agency Approvals. Zoning: MR-RPC (Medium Density Residential Planned Community). Tax Parcel: 533-19.00-777.00.

Motion by Mr. Hudson, seconded by Ms. Stevenson and carried unanimously to approve the Final Site Plan. Motion carried 4-0. Ms. Wingate abstained.

Americana Bayside (RPC)

Revised Master Plan

Mr. Whitehouse advised the Commission that this is a Revised Master Plan for the Americana Bayside Residential Planned Community. The Revised Master Plan has been revised to show the increase of two parcels within Village C – Phase 2 from the approved 46 units, to the 48 units now proposed. The Master Plan shows that the total number of units within Americana Bayside would not exceed the 1,700 units permitted. The parcel is zoned MR-RPC and the Tax Parcel is 533-19.00-39.00.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to approve the Revised Master Plan. Motion carried 4-0. Ms. Wingate abstained.

Americana Bayside (RPC) Village C – Phase 2

Revised Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Revised Preliminary Site Plan for Americana Bayside Medium Density Residential Planned Community (MR-RPC) Village C-Phase 2. The Planning & Zoning Commission approved a Final Site Plan for Village C – Phase 2 at its meeting of September 28, 2017. The Site Plan has since been revised to change a small parking area to two (2) additional lots, that are proposed to be numbered 1046 and 1047. The

Revised Preliminary Site Plan complies with the Zoning and Subdivision Code, and all conditions of approval for the RPC. Staff are awaiting Agency Approvals. The parcel is zoned MR-RPC and the Tax Parcel is 533-19.00-39.00.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to approve the Revised Preliminary Site Plan with final approval to the Planning & Zoning Commission upon receipt of all agency approvals. Motion carried 3-1. Ms. Wingate abstained.

Lighthouse Beach RV Resort

Preliminary Amenities Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Amenities Plan for a bathhouse, pumphouse, swimming pool, open pavilion, and other site improvements located within Rehoboth Shores Manufactured Home Park. The park is subject to two Conditional Use Permits under references CU #1862 and CU #1926 approved on February 9, 2017. The Preliminary Amenities Plan complies with the Zoning Code and all conditions of approval. Staff are in receipt of all agency approvals and the Amenities Plan may therefore be approved as a Final Amenities Plan. Tax Parcel: 234-24.00-35.00. Zoning: AR-1 (Agricultural Residential Zoning District).

Motion by Mr. Hudson seconded by Ms. Stevenson and carried unanimously to approve the Preliminary Amenities Plan in addition to approving the Plan as a Final Amenities Plan. Motion carried 5-0.

The Grove (CU #2028)

Revised Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Revised Preliminary Site Plan for The Grove (CU #2028) for 59 condominium townhomes on a 14.79 Ac parcel of land accessed from Lighthouse Road (Rt.54). The Planning & Zoning Commission approved a Preliminary Site Plan for 61 townhouses as a condominium development at its meeting of August 11, 2016, and a Final Site Plan was administratively approved on December 22, 2016. The Site Plan has since been revised to remove lots 20, and 21, and introduce amenities including a pool, pool house and outdoor living area. The Revised Preliminary Site Plan complies with the Zoning Code and all conditions of approval. Staff are awaiting agency approvals for the changes to the site layout. Zoning District: AR-1 (Agricultural Residential Zoning District). Tax Parcel: 533-12.00-100.00

Motion by Ms. Stevenson seconded by Mr. Hudson and carried unanimously to approve the Revised Preliminary Site Plan with final approval by staff upon receipt of all agency approvals. Motion carried 4-0. Ms. Wingate abstained.

Liberty East and Liberty West (F.K.A Welsh Run) (2005-74)

Revised Preliminary Subdivision Plan

Mr. Whitehouse advised the Commission that this is a Revised Preliminary Subdivision Plan for Liberty East and Liberty West 296-lot cluster subdivision formerly known as “Welsh Run”. Preliminary Subdivision Plan approval was granted by the Planning & Zoning Commission at its meeting of December 14, 2006, subject to conditions. Final Subdivision Plan approval for 124 single-family lots within the east side of Welsh Run was granted by the Commission at its meeting of December 13, 2012. A change in the name of the entire subdivision to “Liberty” was administratively approved on May 6, 2016. The Subdivision Plan has since been revised, and it is

now proposed that Liberty East contains 117 single-family lots, and amenities, and that Liberty West contains 179 single-family lots, for a total of 296-lots. It is proposed that there is a tot lot on the west side of Hollyville Road and a clubhouse and pool on the east side of Hollyville Road. Zoning: AR-1 (Agricultural Residential Zoning District) and GR (General Residential Zoning District). Tax Parcel: 234-15.00-40.00 and 234-15.00-40.01.

Ms. Stevenson commented that she had concerns regarding the potential for pedestrians to cross Hollyville Road, The Commission agreed that they would prefer to see the minutes from the 2005 meeting.

Motion by Ms. Stevenson seconded by Ms. Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

Liberty East and Liberty West (F.K.A Welsh Run) (2005-74)

Preliminary Amenities Plan

This is a Preliminary Amenities Plan for Liberty East and Liberty West 296-lot cluster subdivision formerly known as “Welsh Run”. The Amenities Plan includes a 3,670 S.F clubhouse, swimming pool and 44-space car parking area. The Preliminary Amenities Plan complies with the Zoning Code, and all conditions of approval. Staff are awaiting agency approvals. Zoning: AR-1 (Agricultural Residential Zoning District) and GR (General Residential Zoning District). Tax Parcel: 234-15.00-40.00 and 234-15.00-40.01.

The Commission noted that it would be best to defer this application to enable it to be considered with the Revised Subdivision Plan, on which action has been deferred.

Motion by Ms. Stevenson seconded by Mr. Hopkins and carried unanimously to defer action for further consideration. Motion carried 5-0.

Hawthorne (2005-73) (formerly known as Paradise Lakes)

Request to Amend Condition of Approval

Ms. Bulkilvish advised the Commission that this is an application to amend Condition #8 associated with the Hawthorne 213-lot cluster subdivision off of Lewes-Georgetown Hwy. (Rt. 9). The Commission approved the Preliminary Subdivision Plan at its meeting of August 13, 2015 subject to conditions. The current wording of Condition #8, following approval of a revision by the Commission at its meeting of April 12, 2018, requires amenities, including a swimming pool and clubhouse, to be constructed and open to use by residents of the development within 2 years from the issuance of the first Certificate of Occupancy of the subdivision (September 8th, 2018). That application was supported by a 64-signature petition from the occupiers of the subdivision. The developer has submitted a letter outlining a series of delays caused by inclement weather. It is now proposed to amend Condition #8 to require amenities, including a swimming pool and clubhouse, to be constructed and open to use by residents of the development before December 31, 2018. Tax Parcel ID: 135-11.00-66.00. Zoning: AR-1 (Agricultural Residential Zoning District).

Motion by Mr. Hopkins seconded by Ms. Stevenson and carried unanimously to approve the Request to Amend Condition of Approval. Motion carried 5-0.

Dawn M. Conley

Minor subdivision off a 50' easement

This is a minor subdivision of one lot measuring 0.76 ac. +/- off a 50' easement leaving a residual lot of 6.68 ac. +/- located off Long Branch Rd. The new lot is surrounded by agricultural uses on three sides and the owner is aware of the required 50' buffer from the property line. Tax parcel: 430-11.00-29.00 Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Mr. Hopkins seconded by Ms. Stevenson and carried unanimously to approve the minor subdivision off 50' easement with final approval to staff upon receipt of all agency approvals. Motion carried 5-0.

Meeting adjourned at 9:46 p.m.